



Defamation in Strata

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LookUpStrata



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What is defamation?

- *Defamation Act (Qld) 2005* and common law
- Protecting reputations
- Elements to a legal claim:
 - Matter was published (ie communication to a third party)
 - Matter reasonably identifies a person (ie by name, by position)
 - Matter carries defamatory meanings (ie lower estimation, shun or avoid)
 - Matter causes (or likely to cause) serious harm/serious financial loss (recent amendment)

Options

1. Cease and desist
2. Codes of Conduct
3. Concerns Notice (mandatory pre-proceeding step)
4. Proceedings (time limits – 12 months / 56 days)
 - note: excluded corporations are included

Concerns Notice

- Formal written notice under the *Defamation Act (Qld) 2005*
- Requirements (copy of defamatory matter, identify defamatory matter, identify defamatory imputations, serious harm/financial loss)
- Substantially similar imputations

Response to Concerns Notice

- Offer to make amends:
 - 28 days from concerns notice (unless further particulars given after 14 days – then further 14 days)
 - assumed to be without prejudice
 - must:
 - in writing, under Defamation Act, state any limitations, offer to publish reasonable correction, reasonable steps to tell others of defamatory nature, offer to pay expenses reasonably incurred;
 - may:
 - apology, remove matter, compensation for loss
 - Costs benefits
 - No admission but mitigation of damages

BCCMA Protections

101A Protection of committee members from liability

1. A committee member is not civilly liable for an act done or omission made in good faith and without negligence in performing the person's role as a committee member.
2. In this section— act done or omission made, does not include the publication of defamatory matter as mentioned in section 111A(1).

BCCMA Protections (cont)

IIIA Protection of body corporate and committee from liability for defamation

(1) This section applies if—

- a) the committee for the body corporate for a community titles scheme publishes **required material for a general meeting of the body corporate** under the regulation module applying to the scheme; and
- b) the required material contains defamatory matter.

(2) Each of the following is **not liable for defamation** by the publication of the defamatory matter as mentioned in subsection (1)—

- a) the body corporate;
- b) the committee, or a member of the committee, **other than** a member of the committee who submitted the motion or explanatory note containing the defamatory matter.

What is ‘required material’?

- **required material**, for a general meeting of the body corporate, means any of the following required under the regulation module applying to the community titles scheme to be published for the general meeting—
 - (a) a motion submitted other than by or for the committee for the general meeting;
 - (b) the substance of a motion mentioned in paragraph (a);
 - (c) an explanatory note for a motion mentioned in paragraph (a) prepared by the submitter of the motion.

Other considerations

- Defences – eg qualified privilege, substantial truth
- Republication – natural and probable consequence
- Record requests – withhold defamatory matter (part of record)
- Who pays – usually individual – limited for body corporate
- Social media platforms – hosts and users beware

Thank you

If you require guidance on defamation matters within bodies corporate,
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Defamation Claims in Strata

COMMON SOURCES OF DEFAMATION CLAIMS IN STRATA (QLD)

WHO:

- **On-site managers** – most common, often linked to performance management by committees.
- **Owners vs committee members** – disputes escalated through written statements.
- **Committee member vs committee member** – interpersonal disputes.
- **Strata managers vs owners/committees** – less common but has occurred.

MOTIVES

- Actual Defamation
- Commercial or financial motives
- Pressure / coercion / intimidation of committee member
- Ego-driven motives

IMPACT ON COMMITTEE MEMBERS

PLAINTIFF (PURSUING PARTY)

- Cost to lodge concerns notice via lawyer usually **\$2,000–\$5,000.**
- Relatively low barrier to initiating process.
- Retains the right to initiate court proceedings.

DEFENDANT (RECIPIENT, OFTEN COMMITTEE MEMBER)

- Receiving a **concerns notice** can trigger significant **stress and anxiety.**
- Committee members are **volunteers**, not paid professionals.
- Realisation that **insurance may not cover them** adds financial fear.
- Leads to questions: *“Why risk my personal finances just to volunteer?”*
- Can a body corporate cover legal expenses for a committee member?
- For some, concerns notices can feel like an **easy tool to silence or pressure them.**

CONCERNS NOTICES IN PRACTICE

- Most claims stop at the **concerns notice** stage.
- Rare for matters to proceed further due to high legal costs and unpredictable outcomes.
- Exceptions: cases pursued for **commercial/financial outcomes**.



OFFICE BEARERS LIABILITY: DEFAMATION EXCLUSIONS

Insurers Excluding Defamation

- CHU
- Flex
- Strata Community Insurance
- Chubb
- Axis
- Hutch
- IIS
- Sure Insurance

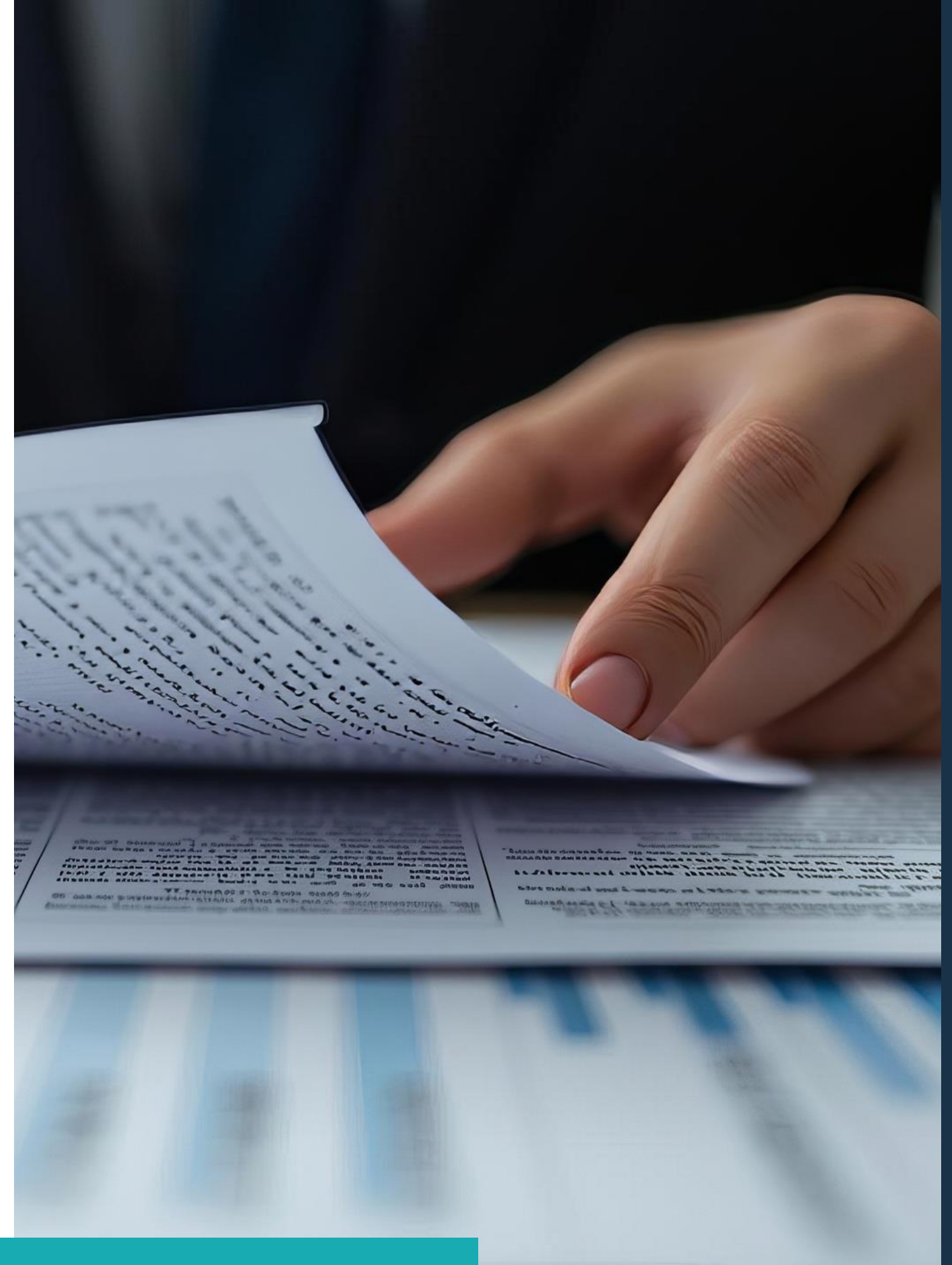
Insurers Without Specific Exclusion

- SUU
- Longitude
- QUS

Note: “No exclusion” does not guarantee automatic cover — always check **the terms, conditions, and exclusions** of the policy.

COVER FOR THE BODY CORPORATE

- **Public Liability section** can extend to cover the **body corporate entity** if sued for defamation.
- Key distinction:
 - **Body corporate entity** → Public Liability may respond.
 - **Office bearers** → rely on Office Bearers Liability (subject to exclusions).



MANAGEMENT LIABILITY INSURANCE

- If insured with an insurer that **excludes defamation cover:**
 - Consider a **separate Management Liability policy.**



Benefits:

- Can be arranged without defamation exclusion.
- Extends broader cover to body corporate and office bearers.
- Complements strata insurance program.

RISK MANAGEMENT STRATEGIES

- **Know your cover** – understand policy terms, conditions, and exclusions.
- **How do you communicate** – Communicate as the **body corporate entity**, not as individuals in “high-risk” communications (e.g., circulars, AGM notices, dispute letters).
- **Plan ahead** – if disputes or hostile parties are likely, arrange **Management Liability insurance early** (cover won’t apply to known events).
- **On-site managers** – if performance managing contracted activities, it’s especially important to have cover in place.

WHAT TO DO IF YOU RECEIVE A DEFAMATION CLAIM

1. **Don't panic** – most claims don't progress beyond a concerns notice.
2. **Check cover** – seek guidance from your broker or insurer on scope of protection.
3. **Get legal advice** – clarify whether the notice should be directed to the body corporate or the individual



THANK YOU

